

EXTRADITION TREATY WITH THE REPUBLIC OF
ALBANIA

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

EXTRADITION TREATY BETWEEN THE GOVERNMENT OF THE
UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE
REPUBLIC OF ALBANIA



APRIL 7, 2022.—Treaty was read the first time, and together with the
accompanying papers, referred to the Committee on Foreign Relations
and ordered to be printed for the use of the Senate

U.S. GOVERNMENT PUBLISHING OFFICE

LETTER OF TRANSMITTAL

THE WHITE HOUSE, *April, 7 2022.*

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the Extradition Treaty between the Government of the United States of America and the Government of the Republic of Albania (the “Treaty”), signed at Tirana on December 22, 2020. I also transmit, for the information of the Senate, the report of the Department of State with respect to the Treaty.

The Treaty would replace the extradition treaty between the United States and Albania, signed at Tirana on March 1, 1933. The Treaty follows generally the form and content of other extradition treaties recently concluded by the United States. It would replace an outmoded list of extraditable offenses with a modern “dual criminality” approach, which would enable extradition for such offenses as money laundering, cyber-related crimes, and other newer offenses not appearing on the list. The Treaty also contains a modernized “political offense” clause and provides that extradition shall not be refused based on the nationality of the person sought. Finally, the Treaty incorporates a series of procedural improvements to streamline and expedite the extradition process.

I recommend that the Senate give early and favorable consideration to the Treaty, and give its advice and consent to ratification.

JOSEPH R. BIDEN, Jr.

LETTER OF SUBMITTAL

DEPARTMENT OF STATE,
Washington, February 1, 2022.

The PRESIDENT,
The White House.

I have the honor to submit to you the Extradition Treaty Between the Government of the United States of America and the Government of the Republic of Albania, signed in Tirana on December 22, 2020 (the “Treaty”). Upon its entry into force, the Treaty would replace the Treaty of Extradition Between the United States of America and the Kingdom of Albania, signed at Tirana on March 1, 1933 (the “1933 Treaty”). I recommend the new Treaty be transmitted to the Senate for its advice and consent to ratification.

The Treaty follows generally the form and content of other extradition treaties recently concluded by the United States, and it is an important part of a concerted effort by the Department of State and the Department of Justice to modernize the legal tools available for the extradition of serious offenders. The Treaty is self-executing and will not require implementing legislation.

An overview of the Treaty, including a detailed article-by-article analysis, is enclosed. The Department of Justice joins the Department of State in favoring approval of the Treaty by the Senate at the earliest possible date.

Sincerely,

ANTONY J. BLINKEN.

Enclosures: As stated.

Extradition Treaty between the Government of the United States of America and the Government of the Republic of Albania

Overview

Introduction

The Extradition Treaty between the Government of the United States of America and the Government of the Republic of Albania (the “Treaty”) replaces the extradition treaty currently in force between the two countries, which was signed in 1933 (the “1933 Extradition Treaty”).

Article-by-Article Analysis

The following is an Article-by-Article description of the provisions of the Treaty:

Article 1 obligates each Party to extradite to the Requesting State those persons sought for prosecution or for imposition or service of a sentence for an extraditable offense.

Article 2 defines extraditable offenses. Under Article 2(1), an offense is extraditable if it is punishable under the laws of both States by deprivation of liberty for a maximum period of more than one year or by a more severe penalty. This formulation reflects the modern “dual criminality” approach, in contrast to the requirement under the 1933 Treaty that the offense be among those listed in the Treaty. The dual criminality formulation also obviates the need to renegotiate or supplement the Treaty as additional offenses become punishable under the laws of both States. It ensures comprehensive coverage of criminal conduct for which extradition may be sought.

Article 2(2) further defines an extraditable offense to include an attempt or a conspiracy to commit, or participation in the commission of, an extraditable offense, if the offense of attempt, conspiracy, or participation is punishable under the laws of the Requesting State by deprivation of liberty for a maximum period of more than one year or a more severe penalty. By using the broad term “participation,” the Treaty covers such offenses as aiding, abetting, counseling, or procuring the commission of an offense, as well as being an accessory to an offense, at whatever stage of development of the criminal conduct and regardless of the alleged offender’s degree of involvement.

Article 2(3) identifies a number of situations in which an offense will be extraditable despite potential differences in the criminal laws of both States. For instance, an offense shall be extraditable whether or not the laws of the Requesting and Requested States place the acts constituting the offense within the same category of offenses or describe the offenses by the same terminology. In addition, an offense involving fraud or evasion of obligations with re-

spect to taxes, customs duties, or import/export controls shall be extraditable regardless of whether the Requested State provides for the same sort of taxes, duties, or controls. This provision also makes explicit that an offense is extraditable even where U.S. federal law requires the showing of certain matters merely for the purpose of establishing U.S. federal jurisdiction, including interstate transportation or use of the mails or of other facilities affecting interstate or foreign commerce. This clarifies an important issue for the United States in requesting extradition for certain federal crimes.

Article 2(4) addresses issues of territorial jurisdiction. It specifies that where the Requesting State seeks extradition for an offense that occurred outside its territory, the Requested State shall grant extradition if the laws of the Requested State would provide for punishment of the extraterritorial offense in similar circumstances. If the Requested State's laws would not provide for punishment of the extraterritorial offense in similar circumstances, the Requested State nonetheless retains discretion to grant extradition provided the other requirements of the Treaty are met.

Article 2(5) prohibits the Requested State from refusing extradition for the sole reason that the offense was committed in its own territory. The U.S negotiating team proposed this provision in order to satisfy a provision of Albania's domestic law that permits extradition for offenses committed in Albania's territory only when expressly required by an extradition treaty or other binding international agreement.

Article 2(6) prescribes that if extradition is granted for an extraditable offense, it shall also be granted for any other offense specified in the request even if the latter offense is punishable by a maximum of one year's deprivation of liberty or less, provided that all other requirements for extradition are met.

Article 2(7) provides that where the extradition request is for service of a sentence of imprisonment for an extraditable offense, the Requested State may deny extradition if, at the time of the request, the remainder of the sentence to be served is less than four months.

Article 3 establishes that extradition shall not be refused based on the nationality of the person sought.

Article 4 establishes an exception for political and military offenses. Article 4(1) states that extradition shall not be granted if the offense for which extradition is requested is a political offense.

Article 4(2) describes five categories of offenses that shall not be considered to be political offenses. A near identical list of these limitations was included in the extradition treaties between the United States and Chile (signed 2013), the United States and the Dominican Republic (signed 2015), and the United States and Kosovo (signed 2016). In addition, to offenses that involve the possession, placement, use or threatened use of an explosive, incendiary, or destructive device when such device is capable of endangering life or causing substantial bodily harm or substantial property damage, Article 4(2)(d) of the Treaty also establishes that political offenses cannot include offenses involving similarly serious biological, chemical, or radiological agents. Further, Article 4(2)(e) makes clear that conspiracy or attempt to commit any of the speci-

fied non-political offenses, or aiding or abetting another person who commits or attempts to commit such offenses, also shall not be considered a political offense. This slight expansion of the political offense exception is in keeping with a major priority of the United States to ensure that an overbroad definition of political offense does not impede the ability to extradite terrorists.

Notwithstanding Article 4(2), Article 4(3) provides that extradition shall not be granted if the executive authority of the Requested State determines that the request was politically motivated.

Under Article 4(4), the executive authority of the Requested State may refuse extradition for offenses under military law that are not offenses under ordinary criminal law. Desertion would be an example of such an offense.

Article 5(1) prohibits extradition in instances where a person sought has been previously convicted or acquitted by the Requested State for the offense for which extradition is requested. Under Article 5(2), however, a person shall not be considered to have been convicted or acquitted in the Requested State when the authorities of the Requested State: (a) have decided not to prosecute the person sought for the acts for which extradition is requested; (b) have decided to discontinue any criminal proceedings against the person for those acts; or (c) are still investigating or proceeding against the person sought for the same acts for which extradition is sought.

Article 6 provides that the decision by the Requested State whether to grant extradition shall be made without regard to the domestic law of either Party concerning lapse of time, thereby eliminating the need for the Requested State to consider questions about whether the statute of limitations on the offense in question has run in the Requesting State in the course of the extradition proceedings.

Article 7 addresses punishment. When an offense for which extradition is sought is punishable by death under the laws of the Requesting State but not under the laws of the Requested State, the executive authority of the Requested State may refuse extradition unless the Requesting State provides assurances that: (a) the death penalty shall not be imposed on the person sought, or (b), if for procedural reasons the Requesting Party cannot provide that assurance, the death penalty, if imposed, shall not be carried out against the person sought. If either type of assurance is provided, the Requested State must grant the extradition request, and the Requesting State must abide by its assurance.

Article 8 specifies the procedures and documents required to support a request for extradition. Article 8(1) requires all extradition requests to be submitted through the diplomatic channel. Among several other requirements, Article 8(3)(c) establishes that extradition requests must be supported by such information as would provide a reasonable basis to believe that the person sought committed the offense(s) for which extradition is requested. Notably, this language is understood as equivalent to the probable cause standard applied in U.S. criminal law and applied by U.S. courts in determining whether to certify to the Secretary of State that a fugitive's extradition would be lawful under the applicable treaty and U.S. law. Article 8(5) specifies the information required to be

included in an extradition request if the request is made for an individual who has been convicted in absentia. Article 8(6) permits the submission of additional information to enable the Requested State to decide on the extradition request.

Article 9 sets out the procedures for the certification, authentication and admissibility of documents in extradition proceedings.

Article 10 requires all documents submitted by the Requesting State under the Treaty to be accompanied by a translation into the language of the Requested State, unless otherwise agreed.

Article 11 provides that, in cases of urgency, the Requesting State may request the provisional arrest of the person sought and sets forth the procedures for making such a request pending presentation of the formal extradition request. Article 11(2) specifies the information that must accompany a provisional arrest request. Article 11(3) provides that the Requesting State shall be notified without delay of the date of a provisional arrest or the reasons why the Requested State cannot proceed with the request. Article 11(4) permits the release of the person provisionally arrested if the executive authority of the Requested State does not receive the formal extradition request and supporting documents within 60 days of the date on which the person was provisionally arrested. This paragraph also specifies that for the purposes of applying the 60-day time limitation, receipt of the formal extradition request and supporting documents by the embassy of the Requested State located in the Requesting State constitutes receipt by the executive authority of the Requested State. Article 11(5) makes clear that the release of a person pursuant to Article 11(4) does not prevent the person's re-arrest and extradition if the Requested State receives the formal extradition request and supporting documents at a later date.

Article 12 requires the Requested State to promptly notify the Requesting State of its decision regarding an extradition request. If the Requested State denies extradition, Article 12(2) requires the Requested State to explain the reasons for the denial. If the Requested State grants extradition, Article 12(3) requires the executive authorities of the Requested and Requesting States to coordinate the date and place for surrendering the person sought. Article 12(4) provides that if the person to be surrendered is not removed from the territory of the Requested State within the time prescribed by the Requested State's laws, the Requested State may discharge the person sought from custody and may subsequently refuse extradition for the same offense.

Article 13 addresses deferred extradition proceedings as well as deferred and temporary surrender of the person sought. Under Article 13(1), if the person sought is being proceeded against in the Requested State, the Requested State may defer the extradition proceedings until its own proceedings have been concluded. Article 13(2) addresses circumstances where extradition proceedings have concluded and extradition has been authorized, but the person sought is being proceeded against or is serving a sentence in the Requested State. In such cases, the Requested State may either defer the surrender of the person sought or temporarily surrender the person to the Requesting State for the purpose of prosecution. Article 13(3) explains that if the Requested State elects to defer

surrender, it may detain the person sought until surrender. Under Article 13(4), however, if the Requested State elects to temporarily surrender the person to the Requesting State, the Requesting State must detain the temporarily surrendered person during proceedings and return the person when proceedings conclude, in accordance with any conditions that may be agreed to by the Parties. The person's return to the Requested State shall not require any further extradition request or proceedings. Moreover, upon return to the Requested State, the time a person served in the temporary custody of the Requesting State may be deducted from the remaining time to be served in the Requested State.

Pursuant to Article 14, if the Requested State receives extradition requests for the same person from the Requesting State and from any other State or States, either for the same offense or for different offenses, the executive authority of the Requested State shall determine to which State, if any, it will surrender that person. Article 14 requires the Requested State to consider a list of non-exclusive factors when making its decision.

Article 15 provides that, subject to certain conditions, the Requested State may seize and surrender to the Requesting State all items that are connected with the offense for which extradition is sought or that may be required as evidence in the Requesting State.

Article 16(1) sets forth the rule of specialty, which prohibits a person extradited under the Treaty from being detained, tried, or punished in the Requesting State, except where the detention, trial, or punishment: (a) is for an offense for which extradition was granted, or for a differently denominated offense carrying the same or lesser penalty that is based on the same facts as the offense for which extradition was granted, provided such offense is extraditable or a lesser included offense; (b) is for an offense committed after that person's extradition to the Requesting State; or (c) occurs with the consent of the executive authority of the Requested State. The Requested State may require the Requesting State to submit the documentation required under Article 8 prior to consenting to the person's detention, trial or punishment for a different offense.

Article 16(2) provides that a person extradited under the Treaty may not be the subject of onward extradition or surrender for any offense committed prior to extradition, unless the Requested State consents. This provision would preclude the Republic of Albania from transferring to a third State or an international tribunal a fugitive that the United States surrendered to the Republic of Albania, unless the United States consents. Article 16(3), however, permits the Requesting State to detain, try, punish, extradite, or surrender the same person if that person: (a) leaves and voluntarily returns to the Requesting State, or (b) chooses not to leave the Requesting State within 10 days of the day that person is free to leave. Article 16(4) provides that the rule of specialty provisions in this Article do not apply if the person sought waives extradition under Article 17(a).

Article 17 allows the Requested State to expedite the transfer of the person whose extradition is sought to the Requesting State when, as provided in Article 17(a), the person waives extradition, in which case a judicial officer may direct the person's transfer to

the Requesting State without further proceedings, or when, as provided in Article 17(b), the person consents to extradition or to a simplified extradition proceeding, in which case the Requested State may surrender the person as expeditiously as possible.

Article 18(1) allows either State to authorize transportation through its territory of a person being extradited or otherwise transferred to the other State by a third State or from the other State to a third State for the purposes of prosecution, imposition of a sentence, or service of a sentence. It also specifies the procedures for requesting such transit and makes clear that a person who is being transported pursuant to this Article shall be detained during the period of transit. Under Article 18(2), authorization is not required when one State uses air transportation and no landing is scheduled in the other State's territory. Should an unscheduled landing occur in a State, however, that State may require submission of a formal transit request pursuant to paragraph 1. The State in which the unscheduled landing occurs must take all measures necessary to prevent the person being transferred from absconding until the transit is effected, so long as the transit request is received within 96 hours of the unscheduled landing.

Article 19 requires the Requested State to advise, assist, appear in court on behalf of, and represent the interests of the Requesting State in any proceedings arising out of an extradition request. The Requested State must bear all expenses incurred in that State in connection with the extradition proceedings, except for expenses related to translation of documents and transportation of the person surrendered.

Article 20 provides that the U.S. Department of Justice and the Ministry of Justice of the Republic of Albania may consult with each other directly in connection with individual cases and in furtherance of efficient implementation of the Treaty.

Article 21 establishes that the Treaty applies to offenses committed both before and after the date it enters into force.

Article 22(1) notes that the Treaty is subject to ratification, and Article 22(2) provides that it shall enter into force upon the exchange of instruments of ratification. Article 22(3) provides that, upon entry into force, the Treaty shall supersede the 1933 Treaty with respect to all requests submitted on or after that date. With respect to pending requests made under the 1933 Treaty, subparagraphs (3) and (4) provide that the Treaty shall supersede the 1933 Treaty, except that the provisions of the 1933 Treaty related to extradition procedures, required documents and the admissibility and translation of documents shall apply if the extradition request and supporting documents have already been submitted to the Requested State at the time the Treaty enters into force.

Under Article 23, either Party may terminate the Treaty at any time by giving written notice to the other Party through the diplomatic channel. The termination shall be effective six months after the date of such notice.

EXTRADITION TREATY

BETWEEN

THE GOVERNMENT OF THE UNITED STATES OF AMERICA

AND

THE GOVERNMENT OF THE REPUBLIC OF ALBANIA

TABLE OF CONTENTS

Preamble

Article 1 Obligation to Extradite

Article 2 Extraditable Offenses

Article 3 Nationality

Article 4 Political and Military Offenses

Article 5 Prior Prosecution

Article 6 Lapse of Time

Article 7 Capital Punishment

Article 8 Extradition Procedures and Required Documents

Article 9 Admissibility of Documents

Article 10 Translation

Article 11 Provisional Arrest

Article 12 Decision and Surrender

Article 13 Deferral of Extradition Proceedings and Deferred
or Temporary Surrender

Article 14 Requests for Extradition or Surrender Made by Several States

Article 15 Seizure and Surrender of Items

Article 16 Rule of Specialty

Article 17 Waiver and Simplified Extradition

Article 18 Transit

Article 19 Representation and Expenses

Article 20 Consultation

Article 21 Application

Article 22 Ratification and Entry into Force

Article 23 Termination

The Government of the United States of America and the Government of the Republic of Albania (hereinafter referred to as "the Parties"),

Recalling the Treaty of Extradition between the United States of America and the Kingdom of Albania, signed at Tirana on March 1, 1933,

Noting that the Parties currently apply the terms of that Treaty, and

Desiring to provide for more effective cooperation between the Parties to combat crime, and, for that purpose, to conclude a new treaty for the extradition of offenders,

Have agreed as follows:

Article 1

Obligation to Extradite

The Parties agree to extradite to each other, pursuant to the provisions of this Treaty, persons sought by authorities in the Requesting State for prosecution or for imposition or service of a sentence for an extraditable offense.

Article 2

Extraditable Offenses

1. An offense shall be an extraditable offense if it is punishable under the laws in both States by deprivation of liberty for a maximum period of more than one year or by a more severe penalty.

2. An offense shall also be an extraditable offense if it consists of an attempt or a conspiracy to commit, or participation in the commission of any offense described in paragraph 1, if it is punishable under the laws of the Requesting State by deprivation of liberty for a maximum period of more than one year or by a more severe penalty.

3. For the purposes of this Article, an offense shall be an extraditable offense:

(a) whether or not the laws in the Requesting and Requested States place the acts or omissions constituting the offense within the same category of offenses or describe the offense by the same terminology;

(b) whether or not the offense is one for which United States federal law requires the showing of certain matters merely for the purpose of establishing jurisdiction in a United States federal court, including but not limited to interstate transportation, or use of the mails or of other facilities affecting interstate or foreign commerce; or

(c) in cases relating to offenses involving fraud or evasion of obligations with respect to taxes, customs duties, or controls on the import or export of commodities or currency, whether or not the laws of the Requesting and Requested States provide for the same sort of taxes or duties or for controls on the same sorts of commodities or on the same amounts of currency.

4. If the offense has been committed outside the territory of the Requesting State, extradition shall be granted if the laws in the Requested State provide for the punishment of an offense committed outside its territory in similar circumstances. If the laws in the Requested State do not provide for punishment of an offense committed outside of its territory in similar circumstances, the executive authority of the Requested State, in its discretion, may grant extradition provided that all other requirements of this Treaty are met.

5. Requests for extradition shall not be refused based solely on the grounds that the location of the commission of the offense is in the Requested State.

6. If extradition has been granted for an offense specified in paragraphs 1 or 2, it shall also be granted for any other offense specified in the request even if the latter offense is punishable by a maximum of one year's deprivation of liberty or less, provided that all other requirements for extradition are met.

7. When the request for extradition refers to a person sought for service of a sentence of imprisonment, the executive authority of the Requested State may deny extradition if, at the time of the request, the remainder of the sentence to be served is less than four months.

Article 3

Nationality

Extradition shall not be refused based on the nationality of the person sought.

Article 4

Political and Military Offenses

1. Extradition shall not be granted if the offense for which extradition is requested is a political offense.

2. For the purposes of this Treaty, the following offenses shall not be considered political offenses:

(a) an offense for which both the Requesting and Requested States have the obligation pursuant to a multilateral international agreement to extradite the person sought or to submit the case to their competent authorities for the purpose of prosecution;

(b) murder, manslaughter, malicious wounding, inflicting grievous bodily harm, assault with intent to cause serious physical injury, and serious sexual assault;

(c) an offense involving kidnapping, or any other form of unlawful detention, including the taking of a hostage;

(d) an offense involving placing, using, threatening the use of, or possessing an explosive, incendiary, or destructive device, or a biological, chemical, or radiological agent, where such device or agent is capable of endangering life, causing substantial bodily harm, or causing substantial property damage; and

(e) a conspiracy or attempt to commit any of the foregoing offenses, or aiding or abetting a person who commits or attempts to commit such offenses.

3. Notwithstanding the terms of paragraph 2 of this Article, extradition shall not be granted if the executive authority of the Requested State determines that the request for extradition was politically motivated.

4. The executive authority of the Requested State may refuse extradition for offenses under military law that are not offenses under ordinary criminal law.

Article 5

Prior Prosecution

1. Extradition shall be denied when the person sought has been convicted or acquitted in the Requested State for the offense for which extradition is requested.

2. For purposes of this Article, a person shall not be considered to have been convicted or acquitted where the competent authorities of the Requested State:

- (a) have decided not to prosecute the person sought for the acts for which extradition is requested;
- (b) have decided to discontinue any criminal proceedings which have been instituted against the person sought for those acts; or
- (c) are still investigating or otherwise proceeding against the person sought for the same acts for which extradition is sought.

Article 6

Lapse of Time

The decision by the Requested State whether to grant the request for extradition shall be made without regard to the law of either party concerning lapse of time.

Article 7

Capital Punishment

When the offense for which extradition is sought is punishable by death under the laws in the Requesting State and not punishable by death under the laws in the Requested State, the executive authority of the Requested State may refuse extradition unless the Requesting State provides the executive authority of the Requested State with an assurance that the death penalty shall not be imposed on the person sought or, if for procedural reasons such an assurance cannot be provided by the Requesting State, with an assurance that the death penalty, if imposed, shall not be carried out. If the Requesting State provides an assurance pursuant to this Article, the Requested State shall grant the extradition, and the Requesting State shall comply with the assurance.

Article 8

Extradition Procedures and Required Documents

1. All requests for extradition shall be submitted through the diplomatic channel.
2. All requests shall be supported by:
 - (a) documents, statements, or other types of information that describe the identity, nationality, and probable location of the person sought;
 - (b) information describing the facts of the offense and the procedural history of the case;
 - (c) the text of the law or laws describing the offense or offenses for which extradition is requested and the applicable penalty or penalties; and
 - (d) the documents, statements or other types of information specified in either paragraph 3 or paragraph 4 of this Article, as applicable.
3. In addition to the requirements in paragraph 2 of this Article, a request for extradition of a person who is sought for prosecution shall also be supported by:
 - (a) a copy of the warrant or order of arrest or detention issued by a judge or other competent authority;
 - (b) a copy of the charging document, if any; and
 - (c) such information as would provide a reasonable basis to believe that the person sought committed the offense or offenses for which extradition is requested.
4. In addition to the requirements in paragraph 2 of this Article, a request for extradition relating to a person who is sought for imposition or service of a sentence shall also be supported by:
 - (a) a copy of the judgment of conviction, or, if a copy is not available, a statement by a judicial or other competent authority that the person has been convicted or found guilty;
 - (b) information establishing that the person sought is the person to whom the finding of guilt refers; and
 - (c) if the person has been sentenced, a copy of the sentence imposed or, if a copy is not available, a statement by a judicial or other competent authority stating what sentence was imposed, as well as a statement establishing to what extent the sentence has been carried out.

5. If the person sought has been convicted or found guilty in absentia, the Requesting State shall submit the information required in paragraphs 2, 3(c), and 4 of this Article and a statement satisfactory to the executive authority of the Requested State regarding the circumstances under which the person was absent from the proceedings and the procedures, if any, that would be available to the person sought to have a new trial or other judicial review of the proceedings if the person were extradited.

6. If the Requested State requires additional information to enable it to decide on the request for extradition, the Requesting State may provide such information within such reasonable length of time as specified by the Requested State. Such supplementary information may be requested and furnished directly between the United States Department of Justice and the Ministry of Justice of the Republic of Albania.

7. When the Requesting State contemplates the submission of particularly sensitive information in support of its request for extradition, it may consult the Requested State to determine the extent to which the information can be protected by the Requested State. If the Requested State cannot protect the information in the manner sought by the Requesting State, the Requesting State shall determine whether the information shall nonetheless be submitted.

Article 9

Admissibility of Documents

1. The documents, statements, and other types of information that accompany an extradition request shall be received and admitted as evidence in extradition proceedings if they bear the certificate or seal of the ministry or department of justice or ministry or department responsible for foreign affairs of the Requesting State, or if they are certified or authenticated in any other manner acceptable under the laws of the Requested State.

2. Documents certified or authenticated pursuant to this Article shall not require further certification, authentication, or other legalization.

Article 10

Translation

All documents submitted under this Treaty by the Requesting State shall be accompanied by a translation into the language of the Requested State, unless otherwise agreed.

Article 11

Provisional Arrest

1. In case of urgency, the Requesting State may request the provisional arrest of the person sought pending presentation of the extradition request and supporting documents. A request for provisional arrest may be transmitted directly between the United States Department of Justice and the Ministry of Justice of the Republic of Albania. The facilities of the International Criminal Police Organization (Interpol) also may be used to transmit such a request.

2. The application for provisional arrest shall contain:

- (a) a description of the person sought and such other information as may be useful in identifying the person;
- (b) the location of the person sought, if known;
- (c) a brief statement of the facts of the case, including, if possible, the time and location of the offense;
- (d) a description of the law(s) violated;
- (e) information concerning the warrant or order of arrest or detention; and
- (f) a statement that the extradition request and supporting documents will follow within the time specified in this Treaty.

3. The Requesting State shall be notified without delay of the provisional arrest or the reasons for any inability to proceed with the request.

4. A person who is provisionally arrested may be discharged from custody upon the expiration of sixty (60) days from the date of provisional arrest pursuant to this Treaty if the executive authority of the Requested State has not received the extradition request and supporting documents required in Article 8. For this purpose, receipt of the request and supporting documents by the Embassy of the Requested State in the Requesting State shall constitute receipt by the executive authority of the Requested State. In that case, the date of receipt of the original request and supporting documents by the Embassy of the Requested State shall be considered to be the date of receipt by the Requested State for purposes of applying the time limit set forth in this paragraph. The Requesting State may provide direct confirmation of delivery to the Requested State and such confirmation shall constitute further evidence of the date of delivery.

5. The fact that the person sought has been discharged from custody pursuant to paragraph 4 of this Article shall not prejudice the subsequent re-arrest and extradition of that person if the extradition request and supporting documents are delivered at a later date.

Article 12

Decision and Surrender

1. The Requested State shall promptly notify the Requesting State through the diplomatic channel and otherwise as appropriate of its decision on the request for extradition.
2. If the request is denied in whole or in part, the Requested State shall provide an explanation of the reasons for the denial. The Requested State shall provide copies of the pertinent judicial decisions upon request.
3. If the request for extradition is granted, the executive authorities of the Requesting and Requested States shall agree on the time and place for the surrender of the person sought.
4. If the person sought is not removed from the territory of the Requested State by the Requesting State within the time prescribed by the law of the Requested State, the person sought may be discharged from custody, and the Requested State, in its discretion, may subsequently refuse extradition for the same offense.

Article 13

Deferral of Extradition Proceedings and Deferred or Temporary Surrender

1. When the person whose extradition is sought is being proceeded against in the Requested State, that State may defer the extradition proceedings against the person sought until its own proceedings have been concluded. The existence of pending proceedings shall not be a basis for judicial denial of the request for extradition.

2. When the extradition proceedings have been concluded and extradition has been authorized, but the person sought is being proceeded against or is serving a sentence in the Requested State, that State may:

- (a) defer the surrender of the person sought until the proceedings have been concluded or until the sentence has been served; or
- (b) temporarily surrender the person to the Requesting State for the purpose of prosecution.

3. In the case of deferred surrender, the person may be kept in custody until surrendered.

4. A person temporarily surrendered shall be kept in custody in the Requesting State and shall be returned to the Requested State after the conclusion of the Requesting State's proceedings against that person, in accordance with any conditions that may be agreed to by the Parties. The return of the person to the Requested State shall not require any further extradition request or proceedings. The time spent in custody in the territory of the Requesting State pending prosecution in that State may be deducted from the time remaining to be served in the Requested State.

Article 14

Requests for Extradition or Surrender Made by Several States

If the Requested State receives requests from the Requesting State and from any other State or States for the extradition or surrender of the same person, either for the same offense or for different offenses, the executive authority of the Requested State shall determine to which State, if any, it will surrender the person. In making its decision, the Requested State shall consider all relevant factors, including, but not limited to:

- (a) whether the requests were made pursuant to a treaty;
- (b) the place where each of the offenses was committed;
- (c) the respective interests of the Requesting States;
- (d) the seriousness of the offenses;
- (e) the nationality of the victim;
- (f) the possibility of any subsequent extradition between the Requesting States; and
- (g) the chronological order in which the requests were received from the Requesting States.

Article 15

Seizure and Surrender of Items

1. To the extent permitted under its law, the Requested State may seize and surrender to the Requesting State all items that are connected with any offense for which extradition is sought or that may be required as evidence in the Requesting State. The items mentioned in this Article may be surrendered even when the extradition cannot be effected due to the death, disappearance, or escape of the person sought.
2. The Requested State may condition the surrender of the items upon satisfactory assurances from the Requesting State that the items will be returned to the Requested State as soon as practicable. The Requested State may also defer the surrender of such items, if they are required as evidence in the Requested State.
3. The rights of third parties in such items shall be duly respected in accordance with the laws of the Requested State.

Article 16

Rule of Specialty

1. A person extradited under this Treaty may not be detained, tried, or punished in the Requesting State except for:

(a) any offense for which extradition was granted, or a differently denominated offense carrying the same or lesser penalty and based on the same facts as the offense for which extradition was granted, provided such offense is extraditable, or is a lesser included offense;

(b) any offense committed after the extradition of the person; or

(c) any offense for which the executive authority of the Requested State consents to the person's detention, trial, or punishment. For the purpose of this subparagraph:

(i) the Requested State may require the submission of the documentation called for in Article 8; and

(ii) the person extradited may be detained by the Requesting State for 90 days, or for such longer period of time as the Requested State may authorize, while the request is being processed.

2. A person extradited under this Treaty may not be the subject of onward extradition or surrender for any offense committed prior to extradition unless the Requested State consents.

3. Paragraphs 1 and 2 of this Article shall not prevent the detention, trial, or punishment of an extradited person, or the onward extradition or surrender of that person, if:

(a) that person leaves the territory of the Requesting State after extradition and voluntarily returns to it; or

(b) that person does not leave the territory of the Requesting State within 10 days of the day that person is free to leave.

4. The provisions of this Article do not apply in the case of a waiver of extradition under Article 17, subparagraph (a).

Article 17

Waiver and Simplified Extradition

The Requested State may expedite the transfer of the person sought to the Requesting State when the person, at any stage of the proceeding and in accordance with the law of the Requested State:

- (a) waives extradition. In such case the competent judicial authority before whom such waiver is made may direct the transfer of the person to the Requesting State without further proceedings; or
- (b) consents to extradition or to a simplified extradition proceeding. In such case the Requested State may surrender the person as expeditiously as possible. The consent of the person sought may include agreement to waiver of the rule of specialty.

Article 18

Transit

1. Either State may authorize transportation through its territory of a person being extradited or otherwise transferred to the other State by a third State or from the other State to a third State for purposes of prosecution or imposition or service of a sentence. A request for transit shall be transmitted through the diplomatic channel or directly between the United States Department of Justice and the Ministry of Justice of the Republic of Albania. The facilities of the International Criminal Police Organization (Interpol) may also be used to transmit such a request. The request for transit shall contain a description of the person being transported and a brief statement of the facts of the case. A person in transit shall be detained in custody during the period of transit.

2. Authorization is not required when air transportation is used by one State and no landing is scheduled on the territory of the other State. If an unscheduled landing does occur, the State in which the unscheduled landing occurs may require a request for transit pursuant to paragraph 1. The State in which the unscheduled landing occurs shall take all measures necessary to prevent the person from absconding until the transit is effected, as long as any transit request required is received within 96 hours of the unscheduled landing.

Article 19

Representation and Expenses

1. The Requested State shall advise, assist, appear in court on behalf of, and represent the interests of the Requesting State in any proceedings arising out of a request for extradition.
2. The Requesting State shall pay all the expenses related to the translation of extradition documents and the transportation of the person surrendered. The Requested State shall pay all other expenses incurred in that State in connection with the extradition proceedings.
3. Neither State shall make any pecuniary claim against the other State arising out of the arrest, detention, examination, or surrender of persons under this Treaty.

Article 20

Consultation

The United States Department of Justice and the Ministry of Justice of the Republic of Albania may consult with each other directly in connection with individual cases and in furtherance of efficient implementation of this Treaty.

Article 21

Application

This Treaty shall apply to offenses committed before as well as after the date it enters into force.

Article 22

Ratification and Entry into Force

1. This Treaty shall be subject to ratification; the instruments of ratification shall be exchanged as soon as possible.
2. This Treaty shall enter into force upon the exchange of the instruments of ratification.
3. Upon its entry into force, this Treaty shall supersede, as between the Parties, the Treaty of Extradition Between the United States of America and the Kingdom of Albania, signed at Tirana on March 1, 1933 (the "1933 Treaty"), with respect to all requests for extradition submitted to the Requested State on or after that date, and shall apply to all pending requests made under the 1933 Treaty except as provided in paragraph 4 of this Article.
4. The provisions of the 1933 Treaty relating to extradition procedures, required documents and the admissibility and translation of documents shall apply to any extradition proceedings in which the extradition request and supporting documents have already been submitted to the Requested State at the time this Treaty enters into force.

Article 23

Termination

Either Party may terminate this Treaty at any time by giving written notice to the other Party through the diplomatic channel, and the termination shall be effective six months after the date of such notice.

IN WITNESS WHEREOF, the undersigned, being duly authorized by their respective Governments, have signed this Treaty.

DONE at Tirana, this 22nd day of December, 2020, in duplicate, in the English and Albanian languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA:



FOR THE GOVERNMENT OF THE
REPUBLIC OF ALBANIA:

